

IN THE CIRCUIT COURT OF THE 15TH
JUDICIAL CIRCUIT IN AND FOR, PALM
BEACH COUNTY, FLORIDA

JOAN CATLETT and TOBY CATLETT,

CASE NO.: 50 2012CA003210XXXXMB

AA

Plaintiff,

v.

BERTO LOPEZ, M.D. and BERTO LOPEZ,
M.D., P.A.,

Defendants.

**NOTICE OF FILING DEFENDANT, BERTO LOPEZ, M.D.'S, RESPONSE TO PLAINTIFFS'
INTERROGATORIES**

COMES NOW the Defendant, BERTO LOPEZ, M.D., by and through undersigned counsel, and hereby file this, its Notice of Filing Response to Plaintiffs' Interrogatories.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent by US Mail to Jeff D. Vastola, Esq., Vastola & Kirwan, P.A., 631 U.S. Highway One, Suite 220, North Palm Beach, FL 33408 on this 9 day of April, 2012.

Respectfully Submitted,

LUBELL & ROSEN, LLC
Attorney for the Defendants
Museum Plaza, Suite 900
200 South Andrews Avenue
Fort Lauderdale, Florida 33301
(954) 755-3425 Office
(954) 755-2993 Fax


Ariel Sofro, Esq.
Florida Bar No.: 37216

FILED
12 APR 12 AM 11:30
SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
CIRCUIT CIVIL 2

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DEFENDANT, BERTO LOPEZ, M.D.'S, RESPONSE TO PLAINTIFFS' INTERROGATORIES

1. What is the name and address of the person answering these interrogatories, and, if applicable, the person's official position or relationship with the party to whom the interrogatories are directed?

Response: Berto Lopez, M.D., 10887 North Military Trail, Palm Beach Gardens, FL 33410; Ariel Sofro, Esq., Lubell & Rosen, Attorneys for Defendants, Museum Plaza, 200 South Andrews Avenue, Suite 900, Fort Lauderdale, FL 33301.

2. List all former names and when you were known by those names. State all addresses where you have lived for the past 10 years, the dates you lived at each address, your Social Security number, and your date of birth.

Response: Dr. Lopez has also been known by the name Humberto Lopez. Dr. Lopez's current mailing address is 10887 N Military Trail, West Palm Beach, FL 33410. Prior to that, his address was 1746 Flagler Manor Circle, West Palm Beach, FL 33411. His social security number is [REDACTED] (Because these interrogatories are public record, please contact the undersigned for Dr. Lopez's complete social security number). Dr. Lopez's date of birth is June 11, 1958.

3. Have you ever been convicted of a crime, other than any juvenile adjudication, which under the law under which you were convicted was punishable by death or imprisonment in excess of 1 year, or that involved dishonesty or a false statement regardless of the punishment? If so, state as to each conviction the specific crime and the date and place of conviction.

Response: No.

4. Describe any and all policies of insurance which you contend cover or may cover you for the allegations set forth in plaintiff's complaint, detailing as to such policies the name of the insurer, the number of the policy, the effective dates of the policy, the available limits of liability, and the name and address of the custodian of the policy.

Response: Pursuant to Florida Statute § 458.320(5)(g)(1), Dr. Lopez did not carry professional liability insurance at the time of the subject of this Complaint.

5. Describe in detail how the incident described in the complaint happened, including all actions taken by you to prevent the incident.

Response: Object to the term "incident" as it is overly broad and vague. Notwithstanding said objection and without waiving the same, see medical records. Specifically, Dr. Lopez discussed the risks associated the laparoscopic procedure that is the subject of this complaint with the Plaintiff and her husband prior to the procedure. Upon completing the laparoscopic hysterectomy, Dr. Lopez visually inspected the area with the laparoscope and saw no leakage into the vagina, ureteral area or abdomen; there was no evidence of any puncture or perforation at that time. Notwithstanding, ureteral injuries are a known complication of such procedures and Plaintiff was made aware of this verbally and in writing. Discovery is ongoing and we reserve the right to amend and/or supplement this response.

6. Describe in detail each act or omission on the part of any party to this lawsuit that you contend constituted negligence that was a contributing legal cause of the incident in question.

Response: Dr. Loepz denies any and all allegations of negligence and is not aware of any negligence by any other party at this time. Discovery is ongoing and we reserve the right to amend and/or supplement our response.

7. State the facts upon which you rely for each affirmative defense in your answer.

Response: Objection. This Interrogatory asks for responses which involve work product, information protected by attorney client privilege, as well as opinions, contentions of counsel, and conclusions. Notwithstanding said objection and without waiving the same, the Affirmative Defenses speak for themselves.

8. Do you contend any person or entity other than you is, or may be, liable in whole or part for the claims asserted against you in this lawsuit? If so, state the full name and address of each such person or entity, the legal basis for your contention, the facts or evidence upon which your contention is based and whether or not you have notified each such person or entity of your contention.

Response: At this early stage in discovery, Dr. Lopez denies any and all allegations of negligence and is not aware of any negligence by any other party. Discovery is ongoing and we reserve the right to amend/supplement our response.

9. Were you charged with any violation of law (including any regulations or ordinances) arising out of the incident described in the complaint? If so, what was the nature of the charge; what plea or answer, if any, did you enter to the charge; what court or agency hear the charge; was any written report prepared by anyone regarding the charge, and, if so, what is the name and address of the person or entity who prepared the report; do you have a copy of the report; and was the testimony at any trial, hearing, or other proceeding on the charge recorded in any manner, and, if so, what is the name and address of the person who recorded the testimony?

Response: No.

10. List the names and addresses of all persons who are believed or known by you, your agents, or your attorneys to have any knowledge concerning any of the issues in this lawsuit; and specify the subject matter about which the witness has knowledge.

Response: Aside from the Plaintiffs, individuals listed in the medical records, subsequent treating physicians, and experts, Dr. Lopez is unaware of any other persons who have knowledge concerning the issues in this lawsuit at this time. Discovery is ongoing and we reserve the right to amend/supplement our response.

11. Have you heard or do you know about any statement or remark made by or on behalf of any party to this lawsuit, other than yourself, concerning any issue in this lawsuit? If so, state the name and address of each person who made the statement or statements, the name and address of each person who heard it, and the date, time, place and substance of each statement.

Response: No.

12. State the name and address of every person known to you, your agents, or your attorneys who has knowledge about, or possession, custody or control of, any model, plat, map, drawing, motion picture, videotape, or photograph pertaining to any fact or issue involved in this controversy; and describe as to each, what item such person has, the name and address of the person who took or prepared it, and the date it was taken or prepared.

Response: Dr. Lopez is unaware of the existence of any of the above-referenced items. Discovery is ongoing and we reserve the right to amend/supplement our response.

13. Do you intend to call any expert witnesses at the trial of this case? If so, state as to each such witness the name and business address of the witness, the witness's qualifications as an expert, the subject matter upon which the witness is expected to testify, and a summary of the grounds for each opinion.

Response: Yes, however the experts in this case have not yet been identified. Discovery is ongoing and we reserve the right to amend and/or supplement our response.

14. Have you made an agreement with anyone that would limit that party's liability to anyone for any of the damages sued upon in this case? If so, state the terms of the agreement and the parties to it.

Response: No.

15. Please state if you have ever been a party, either plaintiff or defendant, in a lawsuit other than the present matter, and, if so, state whether you were plaintiff or defendant, the nature of the action, and the date and court in which such suit was filed.

Response: To the best of Dr. Lopez's knowledge, he has been a party in the following lawsuit(s):

- Diane Hicks, et al. v. Berto Lopez, M.D., et al.; Defendant, Palm Beach County, FL; 1990.
- Judith Buchanan v. Berto Lopez, M.D., et al.; Defendant; Palm Beach County, FL; 1993.
- Kasandra Jones, et al. v. Berto Lopez, M.D., et al.; Defendant; Palm Beach County, FL; 1995.
- Samuel Mercedes, et al. v. Berto Lopez, et al.; Defendant; Palm Beach County, FL; 1997.
- Berto Lopez v. State Farm Mutual Automobile Insurance Company, et al.; Plaintiff; Palm Beach County, FL; 2001.
- Berto Lopez, et al. v. State Farm Mutual Automobile Insurance Company, et al.; Plaintiff; Palm Beach County, FL; 2004.
- Chase Bank USA v. Berto Lopez; Defendant; Palm Beach County, FL; 2009.
- Berto Lopez, M.D. v. State Farm Mutual Automobile Insurance Company, et al.; Plaintiff; Palm Beach County, FL; 2011.

16. Please give us your entire educational background, starting with your college education and chronologically indicating by date and place each school, college, course of study, title of seminars, length of study, and honors received by you up to the present time, including internships, residencies, degrees received, licenses earned or revoked, medical specialty training, board memberships, authorship of any books, articles, or texts, including the names of those writings and their location in medical journals, awards or honors received, and continuing medical education.

Response: See Dr. Lopez's curriculum vitae attached.

17. Please give us your entire professional background up to the present time, including dates of employment or association, the names of all physicians with whom you have practiced, the form of employment or business relationship such as whether by partnership, corporation, or sole proprietorship, and the dates of the relationships, including hospital staff privileges and positions, and teaching experience.

Response: See Dr. Lopez's curriculum vitae attached.

18. With respect to your office library or usual place of work, give us the name, author, name of publisher, and date of publication of every medical book or article, journal, or medical text to which you had access, which deals with the overall subject matter described in paragraph [whatever paragraph number that concerns negligence] of the complaint. (In lieu of answering this interrogatory you may allow plaintiff's counsel to inspect your library at a reasonable time.)

Response: Please contact the undersigned to schedule a mutually agreeable time for counsel to inspect Dr. Lopez's office library, should one exist.

19. If you believe there was any risk to the treatment you rendered to the plaintiff, state the nature of all risks, including whether the risks were communicated to the plaintiff; when, where, and in what manner they were communicated; and whether any of the risks in fact occurred.

Response: Any and all risks were explained to the Plaintiff and her husband prior to the procedure that is the subject of this complaint. The risks were explained both verbally and in writing and Plaintiff signed a consent form indicating that some of the complications of hysterectomy operations are "damage to the intestines and to the urinary system; [and] the formation of abnormal connections between the intestines, the urinary system, the vagina and the skin." Plaintiff was also advised verbally and in writing that "some of the complications of this operation can require further major surgery." Plaintiff indicated her understanding of these risks on January 4, 2011 when she signed the consent form. Discovery is ongoing and we reserve the right to amend and/or supplement our response.

20. Tell us your experience in giving the kind of treatment or examination that you rendered to the plaintiff before it was given to the plaintiff, giving us such information as the approximate number of times you have given similar treatment or examinations, where the prior treatment or examinations took place, and the successful or unsuccessful nature of the outcome of that treatment of those examinations.

Response: Dr. Lopez is Board Certified by the American Board of Obstetrics and Gynecology. He has been in practice for over twenty-five years and currently has privileges at Columbia Hospital, Wellington Regional Medical Center, St.

Mary's Hospital, and Good Samaritan Hospital. Throughout his training, experience and career, Dr. Lopez has diagnosed, and treated countless patients similar to the Plaintiff.

21. Please identify, with sufficient particularity to formulate the basis of a request to produce, all medical records of any kind of which you are aware which deal with the medical treatment or examinations furnished to the plaintiff at any time, whether by you or another person or persons.

Response: Aside from the medical records from Dr. Lopez's office, Dr. Hellerstein's office, Columbia Hospital, and Good Samaritan Hospital, Dr. Lopez does not have any further knowledge pertaining to this request. Discovery is ongoing and we reserve the right to amend and/or supplement our response.

22. Please state whether any claim for medical malpractice has ever been made against you alleging facts relating to the same or similar subject matter as this lawsuit, and, if so, state as to each such claim the names of the parties, the claim number, the date of the alleged incident, the ultimate disposition of the claim, and the name of your attorney, if any.

Response: To the best of our knowledge, no other claims have been made against Dr. Lopez alleging facts relating to the same or similar subject matter as this lawsuit.

23. Identify all records the defendant has which pertain to the care and treatment of plaintiff including charts, ultrasounds, fetal monitoring strips, x-ray films, CT scans, MRI scan, PET scans, nuclear scans, EEGs, EKGs, arteriogram, Doppler reports/data, photographs, videotapes, molds, microscopic slides, or tissue blocks. With respect to those records, please state:

- (a) Who kept the above designated records, where they were kept, and state whether they were kept as part of the standard business practice of the defendant;
- (b) Were the entries made by this defendant or the defendant's office personnel, made at or near the time of the facts recorded?;
- (c) Any alterations in the record, or any record additions, subtractions, or changes in entries wherein, the alterations, additions, subtractions, or changes in entries were not made at or near the time of the original facts recorded;
- (d) Were any records lost, misplaced, destroyed or are any records currently unavailable?

Response: Any and all medical records in Dr. Lopez's possession have already been provided to counsel. Should counsel require another copy of said medical records, please contact the undersigned. Any additional records, films, scans, etc. would be in the possession of Good Samaritan Hospital. Discovery is ongoing and we reserve the right to amend and/or supplement our response.

24. During the course of this defendant's health care provider relationship with plaintiff, and while acting through this defendant's agents, servants, and/or employees, state the name and address of any health care provider(s) this defendant referred plaintiff to at any time and the date(s) and purpose of said referral.

Response: See medical records. Specifically, Dr. Lopez referred Plaintiff to Dr. Daniel Hellerstein on January 24, 2011. Discovery is ongoing and we reserve the right to amend and/or supplement this response.

25. State the date this defendant's health care provider relationship with plaintiff ended, including the date this defendant, by its agents, servants, and employees, last had contact with plaintiff (including telephone or written communication).

Response: According to Dr. Lopez's office chart, the last telephone communication between Dr. Lopez and Plaintiff was on February 18, 2011. Discovery is ongoing and we reserve the right to amend and/or supplement our response.

26. During the course of your professional relationship with plaintiff, state whether any care and treatment of plaintiff was provided as part of employment and/or an association with any entity. If so, state the name and address of said entity and describe the employment and/or association.

Response: Objection as this Interrogatory requests legal conclusions about which this Defendant does not have knowledge. Notwithstanding said objection and without waiving the same, Dr. Lopez was practicing with Berto Lopez, M.D., P.A. The address of Berto Lopez, M.D., P.A. is 10887 North Military Trail, Palm Beach Gardens, FL 33410.

NOT A CERTIFIED COPY

ATTESTATION

STATE OF FLORIDA,

)
) SS

COUNTY OF

Palm Beach

BERTO LOPEZ

, being first duly sworn on oath, deposes and states that he/she is a defendant in the above-captioned matter, that he/she has read the foregoing document, and the answers made herein are true, correct and complete to the best of his/her knowledge and belief.

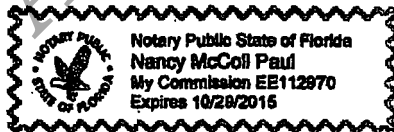
Berto Lopez

SIGNATURE

SUBSCRIBED AND SWORN to before me this 9th day of April 2016

Nancy McColl Paul

SIGNATURE OF NOTARY PUBLIC FOR STATE OF FLORIDA



RESPONSE TO # 16 & 17

BERTO LOPEZ, MD, FACOG
Obstetrics and Gynecology
1501 Presidential Way, Suite 21
West Palm Beach, Florida 33401
PH: (561) 616-3939 FAX (561) 616-3934

COLLEGE

University of Georgia
Athens, Georgia
1975-1979 B.S In Chemistry Degree Cum Laude

MEDICAL SCHOOL

Medical College of Georgia
Augusta, Georgia
1979-1983 Medical Degree

RESIDENCY

Emory University
1983-1987 Department of OB-GYN
Atlanta, Georgia

HOSPITAL AFFILIATIONS

Columbia Hospital
St. Mary's Hospital
Wellington Regional Medical Center
Good Samaritan Medical Center

PROFESSIONAL ORGANIZATIONS

American Medical Association
Florida Medical Association
Palm Beach County Medical Society
American College of OB-GYN, Fellow
American Board of OB-GYN
National Board of Medical Examiners, Diplomate
Florida Obstetrical and Gynecology Society

AWARDS

Outstanding Physician Award 2009, Columbia Hospital
Gavel Award for Physician Leadership 2010, Columbia Hospital
Gavel Award for Physician Leadership 2011, Columbia Hospital
Patient Advocate Award 2008, Columbia Hospital
Bright Star Award / Puerto Rican-Hispanic Chamber of Commerce, Man of the Year in
Health Care, 2009
March of Dimes Professional Service Award, 1995

Healthy Mothers/Healthy Babies Coalition Service Award, 1995
Healthy Mothers/Healthy Babies Supporter of the Year 2009
Pledge of the Year, Alpha Phi Omega, 1976
Master Of Ceremony, National Conference for Alpha Phi Omega Fraternity, 1977

COMMITTEES

Executive Committee, Columbia Hospital 2006 - present
Surgical Evaluation Committee, Columbia Hospital
OB/GYN Evaluation Committee, St. Mary's Hospital
Disaster Committee, Good Samaritan Medical Center
Quality Improvement Department of OB/GYN, Palm Beach Gardens Hospital
Emergency Room Quality Review Committee, Palm Beach Gardens Hospital
Pharmacy and Therapeutic Committee, Palm Beach Gardens Hospital
Credentials Committee, Columbia Hospital 2008-2009
Physician Leadership Group, St. Mary's Medical Center 2008-present
Safety Committee Chairman, Columbia Hospital 2008 - present
Credentialing Committee Chairman, Columbia Hospital 2010
Vice Chief of Staff, Columbia Hospital 2010 - present
Health Professional Advisory Committee, March of Dimes
Physician Champion for CPOE, Columbia Hospital, 2010 to present

ACADEMIC MEDICAL AFFILIATIONS

Clinical Instructor, Department of OB/GYN Palm Beach Center
For Graduate Medical Education
Clinical Instructor, Nova Southeastern Medical School Physician Assistant Program
Clinical Instructor, Florida Atlantic University Advanced Nurse Practitioner Program
Clinical Instructor, Keiser University, Physician Assistant Program

COMMUNITY SERVICE

Palm Beach Opera, Young Friends of the Opera, 1990-1993
Palm Beach Opera Board of Governors, 1993-1994
International Children's Museum, Board of Directors, 1993-1997
March of Dimes Health Professional Advisory Council, 1987-1993
Samaritan Gardens Medical Center, Physician Volunteer

PROFESSIONAL AFFILIATIONS

Assistant Director of RIPPIC Program, 1987-1988
President of Southeast Florida Women's IPA, 1999-2001

COLLEGE ORGANIZATIONS

President Alpha Phi Omega Fraternity, 1977-1978
Chairman of Social Committee, Medical College of Georgia, 1980-1981